S.B. CIVIL WRIT PETITION NO.5349/1994.
**(MADHO SINGH VS. STATE & ORS.)**

DATE OF ORDER : 03.05.2007.

**HON'BLE MR. GOVIND MATHUR, J.**

Mr. Mukesh Vyas for the petitioner.
Mr. Vijay Bishnoi for the respondents.

By this petition for writ, a challenge is given to the order dated 07.05.84 passed by the Dy. Development Commissioner (Administration-II), Department of Rural Development and Panchayati Raj, Government of Rajasthan whereby the petitioner was ordered to be reverted as Class-IV employee from the post of Gram Sewak.

In brief, facts of the case are that the petitioner entered in the services of the respondent Panchayat Samiti, Luni being appointed as Class-IV employee on 28.08.1965. A promotion was accorded to him as "Gram Sewak" on temporary basis by the Secretary, District Establishment Committee, Zila Parishad, Jodhpur. Being brought in knowledge of the Dy. Development Commissioner (Administration-II) and after considering the same, the order impugned dated 07.05.84 was passed directing the Secretary of the District Employees Cadre Committee, Jodhpur to revert the petitioner as Class-IV employee. Being aggrieved by the same, the petitioner

preferred a writ petition (SBCWP No.1503/84) before this Court that came to be disposed of on 8.9.94 with a direction to the respondents to consider the case of the petitioner for regularization in service as "Gram Sewak" on basis of his record of service. The respondents in pursuant to the directions above passed an order dated 10.11.94 holding therein that on screening the petitioner was not found fit to be promoted as "Gram Sewak" i.e. Village Level Worker. Being aggrieved by the same, this petition for writ is preferred.

It is contended by counsel for the petitioner that the respondents without considering case of the petitioner objectively, declared him unfit to hold the post of Village Level Worker (Gram Sewak).

It is relevant to note that the screening of the petitioner for appointment as Gram Sewak was made in pursuant to Proviso 3 to Rule 6 of the Rajasthan Panchayat Samitis and Zila Parishads Act, 1959 that prescribes as follows:

> "Provided also that the persons appointed as teachers, billage level worker, Lower Division Clerk, Stockman, Driver and fourth class servant by the Appointing Authority on adhoc/officiating/temporary basis

> under rule 23 on or before 31.12.85 and were continuously working as such on the date this proviso comes into force shall be screened by the Distt. Establishment Committee adjudging their suitability for appointment on the post held, provided that they possess the requisite qualifications prescribed in these rules either for direct recruitment or promotion or the prescribed qualification on the basis of which these persons were appointed under rule 23. The committee shall also recommend the order on which these persons are to be placed."

In view of proviso 3 to Rule 6 of the Rules of 1959 referred above, suitability of the petitioner was required to be adjudged by the District Establishment Committee. From perusal of the order impugned dated 10.11.1994, it reveals that the District Establishment Committee did not found the petitioner suitable for promotion or for regularization on the post of Village Level Worker as he was lacking knowledge of Panchayat works. The same District Establishment Committee much back in the year 1984 considered the petitioner for promotion and on being found fit promoted him as Village Level Worker under an order dated 04.01.1984. The petitioner, thereafter, continued on the post aforesaid uptill 10.11.1994. It is surprising that a person who has worked as Village Level Worker for a period of about 10

years has not been found suitable to be continued as Village Level Worker by District Establishment Committee. The decision of the District Establishment Committee declaring the petitioner unfit to hold the post for Village Level Worker though he held the same for good ten years, does not appears to be objective, the same, therefore, deserves to be quashed.

Accordingly, this petition for writ is allowed. The order dated 10.11.1994 passed by the Secretary, District Establishment Committee, Zila Parishad, Jodhpur is quashed. In view of the fact that the petitioner has already retired from service, the respondents are directed to make fixation of the petitioner's pay in the pay scale pertaining to the post of Village Level Worker on notional basis from the date he was screened and thereafter revise the pension and pensionary benefits. The arrears accruing as such shall be paid to the petitioner.

No order to cost.

**(GOVIND MATHUR)J.**

Anil/